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1949

## You and yotur tax collector: [pattern speech]

American Institute of Accountants

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# American Institute of Accountants

INCORPORATED UNDER THE LAWS OF THE DISTRICT OF COLUMBIA

THE NATIONAL ORGANIZATION OF CERTIFIED PUBLIC ACCOUNTANTS

13 EAST 41ST STREET, NEW YORK 17, N. Y.

April 27, 1949

To State Society & Chapter Presidents  
and  
State Society & Chapter Committees  
on Public Information

Gentlemen:

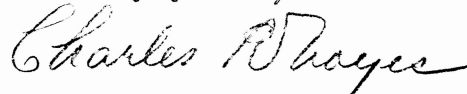
I am enclosing a copy of our latest pattern speech which is now available for use by any Institute member who requests it.

This pattern speech is directed in large measure toward the promotion of the Mills' Tax Settlement Board Bill. The very favorable newspaper and magazine comment on this bill leads me to believe that it is a subject of general interest to taxpayers and that members of service clubs, etc., would be interested in the speech.

It has been announced in The Certified Public Accountant, and we have already received over seventy requests for it. I hope that state societies and chapters will encourage their members to give this speech whenever there is an appropriate occasion. Institute endorsement of the Mills Bill has already brought us considerable favorable publicity and continued efforts are very useful in terms of public relations, as well as to obtain support for the bill itself.

Incidentally, the speech has been checked for accuracy by the chairman of the committee on federal taxation. If you would like to keep additional copies on hand, I shall be glad to send them to you.

Sincerely yours,



Director of Public Information

CENoyes/ec

Enclosure

NOTE: This speech has been prepared for delivery before civic, business and professional groups, such as Chambers of Commerce, Rotary Clubs, business women's clubs, etc. It may be given as written, or adapted in whole or part for any particular occasion.

YOU AND THE TAX COLLECTOR

(pattern speech)

Mr. Chairman, etc. -

Taxes are an unpleasant subject. Nobody wants to think about them any more than he has to, and when I chose the subject for this speech, I was a little afraid that nobody would want to hear me talk about them--particularly when we are a comfortable distance away from March 15th.

But that date doesn't mean as much as it used to, even to accountants. Taxes have become a year-round proposition. We hear people grumbling about them all the time. The surprising thing is that we do pay them, generally speaking, with fairly good grace. Just to encourage you, I am going to tell you a little later on about a proposal which would actually make things easier for the long-suffering taxpayer who gets into an argument with the government.

A few years ago, Alice Duer Miller wrote a poem about an American girl in England, called "The White Cliffs of Dover." At one point in the poem, the American girl said this:

Once I remember in London how I saw  
Pale shabby people standing in a long  
Line in the twilight and misty rain  
To pay their tax. I then saw England plain.

Now, there is a long tradition about the law-abiding English people, and it is probably well deserved. There is something rather impressive about the idea of people patiently waiting in line to pay taxes. But the fact is that this happens in America just as often as it does in England. I have seen a lot of Americans standing in line to pay taxes. And you have seen them too--if not in person, at least in the newsreels. Some of them even laugh about it. Of course, the ones who laugh are probably the ones who expect to get refunds.

But in all seriousness, we can count on the good faith and good will of American taxpayers. The vast majority of them make out their returns honestly, and pay up what they owe as nearly as they can figure it out. If that were not true, we wouldn't hear so many jokes about it over the radio during the first two weeks of March every year. It wouldn't be very funny if many people were intentionally dishonest, or really bad-tempered about paying taxes.

Of course, we have all seen pictures of Al Capone in Alcatraz, and we are aware of the fact that the penalty for fraud may be a number of uncomfortable years as a guest of the government. Nevertheless, most people pay their taxes voluntarily and honestly like any other debt, and not just because they are afraid of going to jail.

Naturally, the taxpayer wants to feel that if he plays fair with the government, the government will play fair with him. And that's the crux of what I want to talk to you

about. There are bound to be a good many honest mistakes in fifty million income tax returns, and in a lot of cases there is room for honest difference of opinion as to how much tax is due.

What happens then?

I think it would be a good idea if more people knew just how our rather complicated system of tax collection operates. I also think it would be a good idea if the system were modernized and streamlined in some respects--particularly in the way appeals are handled when the taxpayer has a disagreement with the Bureau of Internal Revenue. After all, the system hasn't changed much since the days when there were only four million income taxpayers, and now there are over fifty million. But that's getting a bit ahead of the story.

First, let's consider the setup we have for tax collection. As I have said, there are about fifty million income taxpayers. There are about fifty thousand employees in the Bureau of Internal Revenue. That means one employee for every one thousand taxpayers. And of course, only a small percentage of the Bureau employees are actually engaged in tracking down delinquents.

When you figure the amount of paper work involved in mailing out tax blanks, checking and mailing quarterly notices for those who pay in installments, keeping track of all of the checks and money orders and cash which comes in and making sure everyone is credited with the payments he makes, you can see that it is not possible to make a detailed

investigation of every return. I doubt if it would be possible to do that with the help of the Army and Navy and Air Force--working together--and it certainly would not be worth what it cost.

If your income is over ten thousand dollars a year, the chances are that somebody in the Bureau of Internal Revenue will take a close look at your return at least once every two or three years. If you are a millionaire, they go over it with a fine-tooth comb. But for the great majority of taxpayers in the lower brackets, only about one return in every hundred is audited in detail, even though they are trying this year to make a somewhat heavier sampling.

A cynic might say that we take care of the potential dishonesty by the withholding tax. That is by no means entirely true. The withholding tax does not control the amount of deductions taxpayers may claim when they make their final returns. And besides, there are millions of taxpayers with income from interest, dividends, pensions and annuities, small businesses, farms, and professional services, who are not covered by the withholding tax. Nevertheless, we know by comparing tax returns with other figures showing income payments to individuals that Uncle Sam gets most of the money to which he is entitled.

To a very large extent, therefore, we depend on the honesty of John Jones. And that's why it is important to make sure that John Jones' rights are fully protected. Suppose, for example, that he is a small businessman who writes

off a \$5,000 loss in a year when profits are pretty good. At least, he consoles himself, he will have some tax saving to compensate for part of the loss.

Then the Revenue Agent comes along and tells him he has made a mistake--he should have charged off the loss the year before when he didn't have enough net profit to get the full benefit of the reduction in taxes. A case like that can be fairly complicated, and it is not easy to tell who is right and who is wrong. Naturally, Jones is sure he is right. But the Revenue Agent and the other people in the Bureau of Internal Revenue won't agree with him, and eventually he finds that he either has to pay what they say he owes, or hire a lawyer and take his case to the Tax Court--and that will probably cost him more than the amount he is arguing about. So he pays up, with a good deal of bitterness, and if the next year he sees a way he may be able to knock a few dollars off his return by forgetting to report some income the Bureau of Internal Revenue can't trace, he is going to be strongly tempted to try it.

I don't blame the Revenue Agents. Most of them are not only honest and fair, but courteous and long-suffering in a job which does not exactly make them candidates in anybody's popularity contest. It is their job to see that the government collects taxes in full. And it is natural that they should be a bit biased in favor of the government. They know that most taxpayers are honest, but a lot of their time is spent with the relatively small percentage of chiselers, and

afterwhile any man who spends a lot of time dealing with chiselers is almost sure to think that cheating is a lot more common than it really is. You would yourself.

In order to protect the taxpayer and give him a fair opportunity to stand up for his rights, Congress and the Treasury Department have set up a number of appeals procedures. I have found that remarkably few taxpayers know just what opportunities are open to them if they think they are being asked to pay more than they really owe. Some of you undoubtedly know the whole story, but perhaps most of you may be interested in a brief outline of the steps a taxpayer can take all the way up to the Supreme Court, if he thinks he has a legitimate claim or grievance.

First, of course, he files his return with the Collector of Internal Revenue. As I have said, if he is in the lower brackets, the chances are that it will get no more than a cursory glance from some clerk, and if it looks all right, it will be accepted as is. But if the amount is substantial, or if there are unusual deductions and a variety of sources of income listed in the return, it may be turned over to a Revenue Agent and examined with a great deal of care. In cases where the Revenue Agent decides that the tax should be larger than the amount calculated by the taxpayer, the agent may make a personal investigation and propose an additional payment. If the taxpayer does not agree, he will receive what is called a deficiency notice. That is simply a notice telling him to pay so much more than he has already paid. If



he finds after further discussion that he has made an honest mistake, or if the amount is too small to bother about, he usually pays it and that's that.

However, he has thirty days in which to notify the Revenue Agent in Charge that he disagrees with the deficiency assessment and does not feel that he ought to pay it. Then the next step is an interview with somebody in the Conference Section of the Revenue Agent's office. If that does not result in mutual agreement, the taxpayer can go on to another group of specialists known as the Technical Staff. The Technical Staff are highly trained experts--most of them accountants, I am proud to say--who will re-examine the return and all the related documents and, once again, try to arrive at a settlement which is fair to the government and also satisfactory to the taxpayer. However, if the man on the Technical Staff handling a case does not reach an agreement with the taxpayer, he will, nevertheless, make a decision as to the amount of tax which he thinks should be paid and, after that, the taxpayer will receive a notice from the Commissioner of Internal Revenue demanding payment. This new demand is called a 90-day letter, because unless the taxpayer files a petition with the Tax Court within 90 days, he will be notified that the amount is due and must be paid.

As I have outlined it, this sounds like a pretty fair procedure, with three stages of negotiations before the government finally says pay up or else. In most cases, the procedure is satisfactory, and the taxpayer usually decides

to pay, even though he may not be very happy about it.

But there is one catch, and it is a very important one. All of the men the taxpayer deals with--the Collectors, the Revenue Agents, the Conferees, and the Technical Staff--are employees of the Bureau of Internal Revenue, and their job is to collect money for the government. I am sure most of them try very hard to be fair. But, after all, it is their business to protect the government revenue and, in case of doubt, they are not going to give the government any the worst of the bargain. To a considerable extent, the work of any employee of the Bureau of Internal Revenue is likely to be judged by his superiors on the basis of his success in settling cases in the government's favor.

That is probably as it should be. The taxpayer is certainly not trying to pay any more than he has to, and if one party to a controversy leans in one direction, the second party is pretty sure to lean the other way. It happens, however, that the cards are somewhat stacked in the government's favor. The government representative doesn't have to compromise if he doesn't want to. He always makes the final decision, and so the taxpayer sometimes feels that he is being tried by a prosecutor who presents the government's case and then puts on another hat to sit as the judge who will render the verdict.

Twenty-five years ago, when there were only four million income taxpayers as compared with more than fifty million today, Congress recognized that this situation was

not quite what it ought to be and set up a Board of Tax Appeals outside the Treasury Department, so there would be a group of impartial judges to hear the case when the taxpayer had failed to reach what he considered a satisfactory adjustment with the staff of the Bureau of Internal Revenue. This Board of Tax Appeals has rendered fine service, and it is a place where the taxpayer can go for an impartial hearing. The only difficulty is that it takes a good deal of time and costs a good deal of money to make this kind of appeal.

When the bill to create the Board of Tax Appeals was passed by the House of Representatives back in 1924, it called for an informal body which was intended to handle tax cases with a minimum of time and expense. But when the bill got to the Senate, it was changed in one very important respect. Somebody--I am sure it must have been a lawyer--put in a provision that hearings before the Board of Tax Appeals must be conducted in accordance with formal rules of evidence.

That did it. Instead of being able to make his appeal as a simple argument on the merits of his case, the taxpayer who went to the Board of Tax Appeals was required to furnish formal proof of everything he wanted the Board to consider. The burden of proof was always on the taxpayer, and that meant that it became also a heavy financial burden. Inevitably the Board of Tax Appeals became less and less distinguishable from an actual court of law.

In fact, the very name of the Board of Tax Appeals was changed to United States Tax Court in 1942, although it

remained technically an administrative body. Now there is a bill before Congress to make the Tax Court a regular part of the judiciary system.

I do not mean anything I have said as a criticism of the Tax Court. There is a real place for a legal court specializing in tax cases, because tax law is undoubtedly complicated and difficult. I have no quarrel with that. I do feel however that, as things stand today, and even more as they are likely to be if the Tax Court becomes a regular part of the judiciary system, the taxpayer has been deprived of a right of appeal to an impartial body which will review the record of his disagreement with the Bureau of Internal Revenue, and reach a decision on the basis of informal discussion rather than legalistic presentation.

Now, most of you probably feel that this is a matter which affects only a few big taxpayers and that it doesn't make much difference to you personally, because you never expect to take a case to the Tax Court anyway. In one sense, that is true--the Tax Court receives only about five thousand cases a year, and that means only one tax return out of every thousand filed.

In another sense, however, this is a matter of vital importance to almost every taxpayer. There are two reasons why this is true. The first reason is that in the process of trying to reach a settlement with the Technical Staff of the

Bureau of Internal Revenue, it is frequently desirable, and sometimes quite necessary, to file a petition for a hearing before the Tax Court. The Tax Court settles only about a thousand cases a year by decision, out of the five thousand or more petitions which are filed with the court every year. The reason for this difference in numbers is that when a taxpayer receives his 90-day notice from the Collector of Internal Revenue, his only alternative to paying up is filing a petition with the Tax Court. Then he can continue his attempts to settle the case before it comes to trial. And it may not surprise you to know that after the taxpayer has indicated his willingness to go to court if necessary, he is frequently able to reach a satisfactory agreement with the very people in the Technical Staff who had disagreed with him before.

If the old Board of Tax Appeals had continued to function as the informal agency originally intended by the House of Representatives, it would have been a lot easier and less expensive to appeal a case when no agreement was reached with the Technical Staff--and I think that very fact would have led to a lot more agreements. That is water over the dam now.

But that is also why I am very strongly in favor of a bill introduced in Congress this year by Representative Mills, one of the members of the Ways and Means Committee which handles tax legislation. The Mills Bill would set up an informal tax settlement board very much along the lines of

what the old Board of Tax Appeals was originally intended to be. I am firmly convinced that the mere existence of such a board, to which a taxpayer could appeal with a minimum of trouble and expense, would have a salutary effect on the whole process of settling tax cases all through the Bureau of Internal Revenue. When the government agents know that your only recourse is to hire a lawyer, build up a formal case, and go to court, they are in a position to press you pretty hard to pay whatever they tell you to pay. If it were made easier and less expensive to appeal from a decision of the Commissioner of Internal Revenue, I think the Commissioner and his agents would just naturally become more inclined to give the taxpayer the benefit of the doubt. And, believe me, these days a taxpayer needs the benefit of any shred of doubt whatever that may help to give him a break.

Remember that even though not more than one tax return in a thousand gets as far as the Tax Court, there is some adjustment made in at least one return out of every fifty. More than one million people who filed tax returns this year will be receiving--if they have not received already--a little notice from the Collector of Internal Revenue that their ante wasn't big enough and they should sweeten the kitty with a few more dollars. I think it would make a lot of difference to every one of them if they knew that in case they fail to reach an agreement with the people in the Bureau of Internal Revenue, they would still have a chance to present their case informally to a member of a board which was

et up for the express purpose of giving the taxpayer a fair  
l.

And I think it would mean something to the other  
nine or fifty million taxpayers too, because it would  
help to convince them that their rights are fully protected.  
Remember, I said in the beginning that our whole tax system  
depends very largely upon the honesty of the average tax-  
payer and, in my opinion, the willingness of the average tax-  
payer to file an honest and complete return depends to a very  
large extent upon his conviction that the government is going  
to be equally fair to him. We need a large, thorough, and  
efficient Bureau of Internal Revenue to catch the chiselers  
and make sure the government collects from everybody alike,  
and not just from some of us. At the same time, we should  
make doubly sure that the poor taxpayer gets every break  
which is due him. I think that creation of a Tax Settlement  
Board, as proposed in the Mills Bill, would be one of the  
best breaks American taxpayers ever received.

April, 1949